

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

TAVIS WASHBURN,

Defendant.

Case No. 18-MJ-3457

**UNOPPOSED MOTION TO CONTINUE GRAND JURY PRESENTMENT
AND WAIVER OF SPEEDY TRIAL TIME**

Tavis Washburn, through counsel, Assistant Federal Public Defender Alejandro Fernandez, respectfully moves this Court to continue the grand jury presentment for an additional period of 90 days.

1. On November 13, 2017, a preliminary hearing took place in this matter in which it was determined that there was probable cause to find that Mr. Washburn violated 18 U.S.C. § 1112 for the involuntary manslaughter of his brother as his brother rode as his passenger in a car that he operated while drunk.

2. Government's counsel and the undersigned agree that a pre-indictment resolution to this case may still be possible. Previous Orders to Continue were entered on November 20, 2018, and March 6, 2019, on the basis of counsel's prior requests (Doc. 9, 10, 15, 16). Since the previous request, both the

defense and the government consulted experts. The experts indicated new information to each side. The new information opens up the possibility of renewed discussions regarding a pre-indictment resolution to this case. For the chance to continue negotiations, Mr. Washburn wishes to have the grand jury deadline postponed again. He waives use of this time in any speedy trial calculation.

3. Mr. Washburn understands that he had the right to have his case presented to a grand jury within thirty days of his arrest under 18 USC § 3161(b), and now, after any period of time the Court grants pursuant to this request. He understands that this request would cause the time allotted excludable for the purposes of determining compliance with the speedy indictment provision of 18 USC § 3161(b). Mr. Washburn thereby requests that an Order be entered excluding this requested time period pursuant to 18 USC § 3161(h)(7)(A). Mr. Washburn understands that this will delay the proceedings in his case, and that his case will be presented to a grand jury if a pre-indictment resolution cannot be met.

4. Mr. Washburn agrees with this request for a continuance and will not be prejudiced in the event that it is granted. Counsel has discussed with Mr. Washburn his rights under the Speedy Trial Act and he understands the need for a continuance and respectfully asks that this Court grant the instant request.

5. In compliance with the provisions of 18 U.S.C. § 3161(h)(7)(A), undersigned counsel affirmatively states that the ends of justice will be served by

granting this extension of time in which to litigate this case pre-indictment. See United States v. Hernandez-Mejia, 406 Fed. App'x. 330, 338 (10th Cir. 2011) (“The Speedy Trial Act was intended not only to protect the interests of defendants, but was also ‘designed with the public interest in mind.’”) (quoting United States v. Toombs, 574 F.3d 1262, 1273 (10th Cir. 2009)). Additional time will allow the defense and prosecution the opportunity to try to reach a resolution that will greatly save judicial and prosecutorial resources.

6. The Federal Rules of Criminal Procedure, the Speedy Trial Act, and the Federal Rules of Evidence all contemplate the use of pre-trial resources in the effort to settle cases without trial. See Fed.R.Crim.P. 11(c); 18 U.S.C. § 3161(h)(1)(G); Fed.R.Evid. 410. A continuance that aims to avoid an unnecessary grand jury presentment will conserve judicial resources and serve the purposes of the Speedy Trial Act. See Connolly v. United States, 2013 WL 530869 (D. N.J. Feb. 11, 2013 (unpublished) (waste of prosecutorial and judicial resources and delay in the trial of other cases is contrary to the objectives underlying the Speedy Trial Act of 1974, 18 U.S.C. § 3161 *et seq.*); United States v. Stanton, 94 F.3d 643 (4th Cir. 1996) (unpublished) (“it is also clear that the obvious reason the district court granted the motion was to conserve judicial resources by avoiding potential piecemeal litigation, and this justified an ends of justice finding under § 3161”); United States v. Stradford, 394 F.App'x 923, 927,

2010 WL 3622995 (3d Cir. 2010) (unpublished) (affirming the grant of a continuance for several reasons including time to discuss plea negotiations and the continuance would likely conserve judicial resources).

7. This motion is not predicated upon the congestion of the Court's docket.

8. AUSA Allison Jaros does not oppose this Motion to Continue and Waiver of Speedy Trial Time.

WHEREFORE, Mr. Washburn respectfully requests that this Court continue the grand jury presentment for an additional 90 days.

Respectfully Submitted,

[Electronically Filed]
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT on April 25, 2019, I filed the foregoing electronically through the CM/ECF system, which caused AUSA Allison Jaros to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

[Electronically Filed]